

**Title 16 - Land Use Controls**  
**Zoning Ordinance**  
**Ordinance Number 1977-202 As Amended**

An ordinance to repeal the zoning ordinance of the Town of Westfield, Indiana, Ordinance Number 1965-1, as amended, the Improvement Location Permit Ordinance of the Town of Westfield, Indiana, Ordinance Number 1965-2, as amended, and the Subdivision Control Ordinance of the Town of Westfield, Indiana, Ordinance Number 1965-3, as amended, passed by the Board of Trustees of the Town of Westfield, Indiana, Hamilton County, Indiana, in June 1965, and to enact a new Comprehensive Zoning Ordinance concerning minimum standards for physical improvements to land, the regulations and guidelines for administration, standards to administer violations of the ordinance, creating a Board of Zoning Appeals, providing for court review, and specific subdivision controls. Such new ordinance shall be known as the Westfield-Washington Township Comprehensive Zoning Ordinance of 1977 as most recently amended by Ordinance Number 95-8 and shall read as follows:

Be it ordained by the Board of Trustees of the Town of Westfield, Indiana, in accordance with IC 18-7-5 and IC 18-7-6 [IC 36-7-4] and all acts amendatory and supplemental thereto.

WC § 16.04.010 General Provisions

- A. Short Title - This chapter, and ordinances supplemental or amendatory thereto shall be known, and may be cited hereafter as the “Comprehensive Zoning Ordinance of Westfield-Washington Township, 1977 as amended”.
- B. Interpretation - In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience and general welfare of the public.
- C. Non-Interference With Greater Restrictions Otherwise Imposed - It is not intended by this chapter to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties; nor any chapters, rules, regulations or permits previously adopted or issued, or which shall be adopted or issued and which are not in conflict with any of the provisions of this chapter; except that, where this chapter imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per family, than are required or imposed by such easements, covenants, or agreements between parties, or by such chapter, rules, regulations or permits, the provisions of this chapter shall control.
- D. Determination and Interpretation of District Boundaries
  - 1. In determining the boundaries of districts, and establishing the provisions applicable to each district, due and careful consideration has been given to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adopted, and the conservation of property values throughout the township.
  - 2. Where uncertainty exists as to the exact boundaries of any district as shown on the zone map, the following rules shall apply:
    - a. In areas not subdivided, or where a district boundary subdivides a lot, the exact location of the boundary shall be determined by use of the scale of the official aerial maps prepared by the county auditor.
    - b. In the case of further uncertainty, the Commission shall interpret the intent of the zone map as to the location of the boundary in question.
- E. Procedure Relating to Annexed or Vacated Areas - Territory which may hereafter be annexed to the Town shall remain as zoned, unless changed by amendment to this chapter.

Whenever any right-of-way or other similar area is vacated by proper authority, the districts adjoining each side of such right-of-way or similar area shall be extended automatically to the center of such vacation and all areas included in the vacation shall then and thenceforth be subject to all appropriate provisions of the extended districts. In the event of a partial

vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all of the vacated area.

F. Use

1. No building or land shall be used and no building shall be erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a district in which such a building or land is located.
2. Notwithstanding the provisions of F.1. of this section, lands which have been rezoned from AG-SF 1 to a more dense single family district shall be permitted to continue use of the land for agricultural purposes as permitted under AG-SF 1 until such time as the land is platted.

G. Height - No building shall be erected, reconstructed or structurally altered to exceed in height the limits established and specified for the use of the district in which such building is located except as otherwise provided in Article 1, Section XI.

H. Yard, Lot Area and Size of Building - No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot area per family, ground floor area of dwellings, or lot coverage provisions established and specified for the use and the district in which such building is located.

I. Lots - Every building hereafter erected shall be located on a lot. In no case shall there be more than one principal building used for residential purposes, and its accessory buildings, located on one lot, except as provided for multi-family type buildings.

J. Parking Space, Loading and Unloading Berths - For each building hereafter erected and for certain other uses of land, parking spaces for motor vehicles and loading and unloading berths as specified for the use to which such building or land is to be devoted shall be provided, except in historical district, to encourage the establishment of adequate parking spaces to meet the needs of a mobile society.

K. Filing of Fees - Applications and petitions filed pursuant to the provisions of this chapter shall be accompanied by the filing fees hereinafter specified in Figure 1.

L. Remedies

1. The Commission, the Board, the Building Commissioner, or any designated enforcement official or any person or persons, firm or corporation, jointly or severally aggrieved, may institute a suit of injunction in the circuit court of Hamilton County to restrain an individual or a government unit from violating the provisions of this chapter.

2. The Commission or the Board may also institute a suit for mandatory injunction directing any individual, a corporation or a governmental unit to remove a structure erected in violation of the provisions of this chapter.
  3. Any building, erected, raised, or converted, or land or premises used in violation of any provisions of this chapter or the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.
  4. As an additional remedy to each of the above identified plaintiffs, if the plaintiff prevails the court may allow costs, expenses and reasonable attorney fees in any judgment so rendered.
- M. Amendments - All amendments to this chapter shall be in conformance with the provisions of IC 36-7-4 and all acts amendatory thereto.
- N. Invalidity of Portions - Should any section or provisions of the chapter be declared, by a court of competent jurisdiction, to be invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof, other than the portion so declared to be invalid.
- O. Farms Exempt - Farm structures constructed in the normal course of agricultural business for the support of individual farms shall not be subject to securing an improvement location permit except if any structure requires major plumbing, heating, sewage or electrical installations such structure will be subject to the permit fees contained in the chapter. If any farm structure, located in a district other than an area zoned GB, EI or OI, is used as an ancillary business such as greenhouses, wholesale or retail, or a feed mixing or grinding operation for a handling or service fee then a special exception must be authorized by the board prior to beginning construction or operating the ancillary business.
- P. Public Utility Installations
1. Structures and land used for public utility installations, as identified in Figure 2., while so used, shall be affected by the provisions for this chapter.
  2. All utility structures including substations shall be effectively landscaped and shall have plans for such landscaping, lighting, traffic control, building heights and setbacks approved by the Plan Commission.
- Q. Mineral Extraction Exempt - Nothing herein shall prevent, outside or urban areas, the complete use and alienation of any mineral resources or forests by the owner or alienation thereof. For the purpose of this paragraph, urban area shall include any land, or lots used for residential purposes where there are eight or more residences within one quarter mile square area and such other lands or lots as have been or are planned for residential areas contiguous to incorporated cities or towns.

- R. Business Development Exempt -Any parcel of land which is divided into sites, tracts, or lots for accommodating business or industry shall not be subject to the requirements and restrictions contained in the subdivision control sections of this chapter.
- S. Minimum Width for Housing - All single family or duplex homes shall be required to be constructed with the main body of the residence being 23 feet or more wide.
- T. Variance Approval by Plan Commission - Any petitioner who receives a variance for the usage of land by the Board of Zoning Appeals that would permit the use or construction of business, industrial or office facilities, other than a special exception that has had plans previously approved by the Plan Commission, must also have their plans approved by the Plan Commission.
- U. Road Frontage Calculation - Road frontage shall be determined by the measurement of the distance between property lines at the right-of-way which has been dedicated and accepted by the Town of Westfield or Hamilton County.
- V. Procedural Requirements
  - 1. The Plan Commission shall review and approve site development plans for all churches, schools, and utilities in all zoning districts. The Community Development Department staff shall have the authority to require other uses to obtain Plan Commission approval due to the nature and complexity of the proposed project. This process will ensure adherence to developmental standards established in the Westfield - Washington Township Comprehensive Zoning Ordinance.
  - 2. Prior to Plan Commission review, all proposed churches, schools, utilities, and other uses determined by the Community Development Department staff shall be required to complete a review by the Westfield Technical Advisory Committee.
- W. Commitments Required by the Plan Commission
  - 1. Commitments.
- X. The Plan Commission may, when in the discretion of the Plan Commission it is deemed necessary to: (i) assure the compatibility of a proposed development with surrounding properties; or (ii) to minimize the potential for the occurrence of detrimental affects from any attributes of a proposed development on surrounding properties, require or permit the owner of a parcel of property to make written commitments concerning the use or development of the subject property in connection with a Development Plan Approval as provided for in this Ordinance, or in connection with recommending approval of a zone map change to any zoning district classification contained in this Ordinance to the Town Council as a condition of development.

The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitments shall be in effect for: (i) as long as the real estate to which they apply remains zoned to the classification to which the real estate was zoned when the commitments were made; or (ii) modified or terminated as provided below. The commitments shall authorize their recording by Staff in the Office of the Recorder of Hamilton County, Indiana upon the final approval of a Development Plan by the Plan Commission or the final approval of the zone map change by the Town Council. Following the recording of the commitments, Staff shall return the original recorded commitments to petitioner and shall retain a copy of the recorded commitments in its file.

The Plan Commission, Owners of all parcels of ground adjoining the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval, and other specially affected persons designated in such commitments shall be entitled to enforce such commitments pursuant to Indiana Code 36-7-4-1015 or as otherwise provided by applicable law.

The commitments required by the Plan Commission shall be in substantially the form set forth in Exhibit "A" of this Ordinance.

1. Modification of Commitments by the Plan Commission.

Commitments required or permitted by the Plan Commission may be modified or terminated by a decision of the Plan Commission, made at a public hearing after notice to adjoining owners has been given pursuant to the Rules of Procedure of the Plan Commission. Any modification or termination of the commitments shall not be effective until: (i) reduced to writing; (ii) approved by the Plan Commission; (iii) executed and notarized by the present owner(s) of the real estate; and, (iv) recorded in the Office of the Recorder of Hamilton County, Indiana.

The modification or termination of commitments shall be in substantially the form set forth in Exhibit "B" of this Ordinance.

X. Rail Corridors - The following regulations affecting the Alternative Transportation Plan (trails) shall apply to all property that abuts a railroad property line, current or former:

1. The railroad property lines used for platting purposes shall be those boundaries in place as of January 2001 according to Hamilton County mapping records.
2. The Westfield Community Development Department will work with owners of property that is adjacent to a rail line should any question of development arise. Any new development proposal that is adjacent to a rail line and requires an Improvement Location Permit or Development Plan Review shall be brought to the attention of the Director, who will address this section of the ordinance with the developer. The Director shall then inform the Town Manager of said development.

3. For any activity that would require an Improvement Location Permit, the Westfield Community Development Department shall work together with owners of property that is adjacent to a rail line regarding set back, landscaping and any other development standards deemed appropriate for the future development of the alternative transportation system and for the property owner. For new development proposals that are adjacent to a rail line and require an Improvement Location Permit or Development Plan Review, the Director will work with the developer to determine how the rail line will be used regarding set back, landscaping and any other development standards deemed appropriate by the Westfield Community Development Department.
4. The Town will work with any rail line property owner that can show best title as determined by a court of law with the intent of protecting the rail line right-of-way for the use as presented in the Alternative Transportation Plan in a way that is beneficial to all.
5. Any agreement must be approved by the Council and incorporated into the Town's plan approval process.

Y. Preexisting Nonconforming Lots, Structures, and Uses - Lots, structures, and the use of such that were both in existence and in compliance with all land use and other laws on the date of passage of the Westfield Washington Township Zoning Ordinance (December 20, 1977) and further, that do not conform to the regulations set forth in this ordinance, shall be deemed to be legal, pre-existing nonconforming uses that may be continued subject to the following provisions:

1. Nonconforming Lots of Record - All lots legally existing prior to December 20, 1977, may be used as permitted in the zoning district in which they are located, provided that:
  - a. The holder of said parcel does not own sufficient adjacent land to enable the parcel to conform to the dimensional and acreage requirements of this Ordinance,
  - b. The lot width is no less than 100 feet
  - c. The lot acreage is no less than 1 acre.
2. Nonconforming Structures of Record: Expansion or enlargement of a structure existing prior to December 20, 1977 shall be permitted provided that the enlargement or expansion of the structure does not further increase the nonconformity.
3. Nonconforming Uses of Record: The continued operation of a nonconforming use existing prior to December 20, 1977 shall be permitted provided that the level of intensity and/or nonconformity is not increased.
4. Termination of Nonconforming Status.
  - a. Any land, structure, or land and structure in combination, where a legal, pre-existing nonconforming use is replaced by a permitted use, may thereafter only be put to a permitted use and the nonconforming use may not thereafter be resumed.
  - b. When a legal, pre-existing nonconforming use of land, structure, or land and structure in combination, is discontinued or abandoned for twelve (12) consecutive months, the land, structure, or land and structure in combination, may thereafter only be put to a permitted use and the nonconforming use may not thereafter be resumed.

- c. Where legal nonconforming use status applies to a structure and lot in combination, deliberate removal or destruction of the structure shall eliminate the legal nonconforming status of the land.
- 5. Transferability: Any legal, pre-existing nonconforming use shall continue until or unless terminated as described above. Such use may be sold, inherited, or otherwise transferred, provided the use, land, and structure (if any) remain in compliance with the preexisting nonconforming regulations described herein.
- 6. Zoning Amendments: These provisions apply in the same manner to a use which may become a nonconforming use as a result of an amendment to the Westfield Washington Township Zoning Ordinance of 1977.



**EXHIBIT "A"**

NOTE: The Westfield-Washington Township Zoning Ordinance of 1977 requires the use of this form in recording commitments made with respect to Development Plan Approvals, Zone Map Changes or Planned Unit Developments in accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615.

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A DEVELOPMENT PLAN APPROVAL, ZONE MAP CHANGE OR PLANNED UNIT DEVELOPMENT REQUIRED BY THE WESTFIELD - WASHINGTON TOWNSHIP ZONING ORDINANCE**

In accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615, the Owner of the real estate located in the Town of Westfield, Hamilton County, Indiana or Washington Township, Hamilton County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the following described parcel of real estate:

**LEGAL DESCRIPTION:**

**STATEMENT OF COMMITMENTS:**

- 1.
- 2.
- 3.

These COMMITMENTS shall run with the land, be binding on the Owner of the above-described real estate, subsequent owners of the above-described real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Westfield-Washington Township Plan Commission made at a public hearing after proper notice has been given.

WESTFIELD-WASHINGTON TOWNSHIP ZONING ORDINANCE

COMMITMENTS contained in this instrument shall be effective upon the approval of petition # \_\_\_\_\_ pursuant to the Westfield-Washington Township Zoning Ordinance of 1977, and shall continue in effect until modified or terminated by the Westfield-Washington Township Plan Commission.

These COMMITMENTS may be enforced jointly or severally by:

1. The Westfield-Washington Township Plan Commission;
2. Owners of all parcels of ground adjoining the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval; and
3. \_\_\_\_\_  
\_\_\_\_\_

The undersigned hereby authorizes the Westfield - Washington Township Plan Commission to record this Commitment in the Office of the Recorder of Hamilton County, Indiana, upon final approval of petition # \_\_\_\_\_.

IN WITNESS WHEREOF, Owner has executed this instrument this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**(Individual Owner)**

Signature\_\_\_\_\_ (Seal)

Signature\_\_\_\_\_ (Seal)

Printed\_\_\_\_\_

Printed\_\_\_\_\_

**(Organization Owner)**

\_\_\_\_\_

By\_\_\_\_\_

Printed\_\_\_\_\_

Title\_\_\_\_\_

**(Individual Acknowledgment)**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature\_\_\_\_\_

Printed\_\_\_\_\_

County of Residence\_\_\_\_\_

My Commission expires: \_\_\_\_\_

**(Organization Acknowledgment)**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a(n) \_\_\_\_\_, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature\_\_\_\_\_

Printed\_\_\_\_\_

County of Residence\_\_\_\_\_

My Commission expires: \_\_\_\_\_

This instrument was prepared by \_\_\_\_\_.

**EXHIBIT "B"**

**NOTE:** The Westfield-Washington Township Zoning Ordinance of 1977 requires the use of this form in recording commitment modification(s) or termination(s) with respect to a Development Plan Approval, Zone Map Change or Planned Unit Development in accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615.

**COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A DEVELOPMENT PLAN APPROVAL, ZONE MAP CHANGE OR PLANNED UNIT DEVELOPMENT.**

In accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615, the Owner of the real estate located in Town of Westfield, Hamilton County, Indiana or Washington Township, Hamilton County, Indiana, which is described below, makes the following modification(s) or termination(s) of commitment(s) concerning the use and development of the following described parcel of real estate:

**LEGAL DESCRIPTION:**

**STATEMENT OF MODIFICATION OR TERMINATION OF COMMITMENTS:**

- 1.
- 2.
- 3.

These MODIFICATION OR TERMINATION OF COMMITMENTS shall run with the land, be binding on the Owner of the above-referenced real estate, subsequent owners of the above-referenced real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Westfield-Washington Township Plan Commission made at a public hearing after proper notice has been given.

WESTFIELD-WASHINGTON TOWNSHIP ZONING ORDINANCE

MODIFICATION OR TERMINATION OF COMMITMENTS contained in this instrument shall be effective upon adoption of modification or termination approved by the Westfield-Washington Township Plan Commission in petition # \_\_\_\_\_.

These COMMITMENTS may be enforced jointly or severally by:

1. The Westfield - Washington Township Plan Commission;
2. Owners of all parcels of ground adjoining the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval; and
3. \_\_\_\_\_  
\_\_\_\_\_

The undersigned hereby authorizes the Westfield - Washington Township Plan Commission to record this MODIFICATION OR TERMINATION OF COMMITMENTS in the Office of the Recorder of Hamilton County, Indiana, upon final approval petition # \_\_\_\_\_ by the Westfield-Washington Township Plan Commission.

IN WITNESS WHEREOF, Owner has executed this instrument this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**(Individual Owner)**

Signature\_\_\_\_\_ (Seal)

Signature\_\_\_\_\_ (Seal)

Printed\_\_\_\_\_

Printed\_\_\_\_\_

**(Organization Owner)**

\_\_\_\_\_

By\_\_\_\_\_

Printed\_\_\_\_\_

Title\_\_\_\_\_

**(Individual Acknowledgment)**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature\_\_\_\_\_

Printed\_\_\_\_\_

County of Residence\_\_\_\_\_

My Commission expires: \_\_\_\_\_

**(Organization Acknowledgment)**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a(n) \_\_\_\_\_, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature\_\_\_\_\_

Printed\_\_\_\_\_

County of Residence\_\_\_\_\_

My Commission expires: \_\_\_\_\_

This instrument was prepared by \_\_\_\_\_.